

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:04CV398-1-V  
3:01CR175-1-V**

**DERRICK ADAMS,** )  
 )  
 **Petitioner,** )  
 )  
 **v.** )  
 )  
 **UNITED STATES OF AMERICA,** )  
 )  
 **Respondent.** )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** comes before the Court upon Petitioner's Motion to Reopen 28 U.S.C. § 2255 Proceedings, filed May 9, 2005.

On or about September 10, 2001, a grand jury indicted Petitioner for possession of a firearm by a convicted felon. On May 29, 2003, after a trial by jury, Petitioner was convicted of violating 18 U.S.C. § 922(g). On December 19, 2002, this Court sentenced Petitioner to 235 months imprisonment.

Petitioner directly appealed his sentence to the United States Court of Appeals for the Fourth Circuit where his sentence was affirmed on August 15, 2003. On August 13, 2004, Petitioner filed the instant Motion to Vacate, Set Aside, or Correct Sentence alleging that his pre-sentence report incorrectly calculated his criminal history and that his sentence violated his constitutional rights because § 924(e) was not listed in his indictment. On October 18, 2004, this Court dismissed Petitioner's Motion to Vacate.

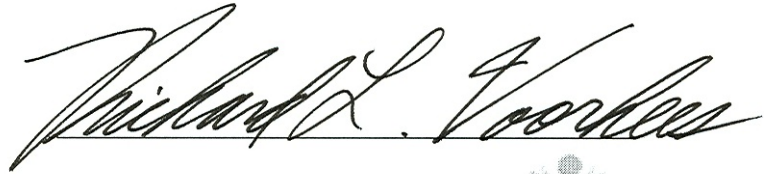
Petitioner now asks this Court to reopen his Motion to Vacate so as to allow him

to present additional claims. This Court has no authority to take such an action.

Moreover, any claim presented by Petitioner would be untimely. 28 U.S.C. § 2255 (one year limitation period).

**IT IS THEREFORE ORDERED that** Petitioner's Motion to Reopen 28 U.S.C. § 2255 Proceedings is **DENIED**.

**Signed: June 3, 2005**

A handwritten signature in black ink, reading "Richard L. Voorhees". The signature is written in a cursive style with a horizontal line underneath the name.

Richard L. Voorhees  
United States District Judge

